

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	Atty. Docket: US 010512
NEVENKA DIMITROVA ET AL.	Group Art Unit: 2623
Serial No. 10/014,258	Examiner: F. E. HOSSAIN
Filed: DECEMBER 11, 2001	CONF. NO. 2763

TITLE: A SYSTEM FOR AND METHOD OF SHOPPING THROUGH TELEVISION

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

Appellant herewith respectfully presents its Brief on Appeal
as follows:

REAL PARTY IN INTEREST

The real party in interest is Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

To the best of Appellants' knowledge and belief, there are no related appeals or interferences.

STATUS OF CLAIMS

Claims 1-6, 9-20 and 23-32 are pending in this application. Claims 1-6, 9-20 and 23-32 are rejected in the Final Office Action that issued February 15, 2008. This rejection was upheld, in an Advisory Action that issued April 22, 2008. Claims 1-6, 9-20 and 23-32 are the subject of this appeal.

STATUS OF AMENDMENTS

An Amendment After Final Action was filed April 22, 2008 in response to the Final Office Action that issued February 15, 2008. The Advisory Action of April 22, 2008 considered the Amendment After Final Action however, upheld the rejections contained in the Final Office Action. This Appeal Brief is in response to the Final Office Action that rejected claims 1-6, 9-20 and 23-32 and the Advisory Action that upheld those rejections.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention, for example as claimed in claim 1, relates to a method of performing a transaction using a video device (e.g., see, present application, FIGs. 1 and 2 and page 9, lines 2-12). The method includes acquiring a video signal containing a video program (e.g., see, present application, page 9, lines 12-14 and line 19 through page 10, line 11). Enhanced content information representative of at least one marked product presented on the video program is extracted from the video signal (e.g., see, present application, page 11, line 22 through page 12, line 16). The video enhanced content information is presented to the user (e.g., see, present application, page 12, lines 17-20; page 13, line 24 through page 14, line 11). Selection of a marked product of interest is received (e.g., see, present application, page 12, lines 17-20; page 13, line 24 through page 14, line 11; page 16, lines 12-17). A search is performed to identify data related to the selected product including at least one source not associated with a source of the video program (e.g., see, present application, page 17, lines 13-16; page 18, lines 7-15). The

identified data is provided to a user of the video device (e.g., see, present application, page 19, lines 15-19).

The present invention, for example as claimed in claim 15, relates to a system for performing a transaction using a video device (e.g., see, present application, FIGs. 1 and 2 and page 9, lines 2-12). The system includes a set-top box 25 for acquiring a video signal containing a video program (e.g., see, present application, page 9, lines 12-21; page 10, lines 6-11). The set-top box includes a memory 26 (e.g., see, present patent application, page 10, lines 12-17), a processor 25 (e.g., see, present patent application, page 9, lines 19-25) and an input/output connection associated with the processor for transferring the signal (e.g., see, present application, page 10, lines 6-11). The processor is operable to extract from the video signal, video enhanced content information representative of at least one marked product presented on the video program (e.g., see, present application, page 11, line 22 through page 12, line 16); present video enhanced content information to the user (e.g., see, present application, page 12, lines 17-20; page 13, line 24 through page 14, line 11); receive a selection of a marked product of

interest (e.g., see, present application, page 12, lines 17-20; page 13, line 24 through page 14, line 11; page 16, lines 12-17); perform a search to identify data related to the selected product including at least one source not associated with a source of said video program (e.g., see, present application, page 17, lines 13-16; page 18, lines 7-15); and provide the identified data to the user (e.g., see, present application, page 19, lines 15-19). The system further includes a video device 30 operatively coupled with the set-top box 25 for displaying the video program, video enhanced content information, and identified data to the user (e.g., see, present application, page 9, lines 3-6; page 9, lines 19-23); and an input device 20 operatively associated with the set-top box 25 for controlling the set-top box 25 (e.g., see, present application, page 9, lines 6-8; and page 16, lines 20-21).

The present invention, for example as claimed in claim 28, relates to a method of performing a transaction using a video device (e.g., see, present application, FIGS. 1 and 2 and page 9, lines 2-12). The method includes acquiring a video signal containing a video program (e.g., see, present application, page 9, lines 12-14 and line 19 through page 10, line 11). The preferences

are customized for at least one user (e.g., see, present application, page 11, lines 17-19; page 12, line 22 through page 13, line 1). Enhanced content information representative of at least one marked product presented on the video program is extracted from the video signal (e.g., see, present application, page 11, line 22 through page 12, line 16). The video enhanced content information is filtered based on the preferences (e.g., see, present application, page 17, lines 5-12). The filtered video enhanced content information is presented to the user (e.g., see, present application, page 12, lines 17-20; page 13, line 24 through page 14, line 11). Selection of a marked product of interest is received (e.g., see, present application, page 12, lines 17-20; page 13, line 24 through page 14, line 11; page 16, lines 12-17). A search is performed to identify a source of the selected product through at least one predetermined list of information sources for a particular category including at least one source not associated with a source of the video program (e.g., see, present application, page 17, lines 13-16; page 18, lines 7-15). The identified product source is negotiated with by offering a price the user is willing to pay to buy the selected product other than a price initially

offered by the source regarding the selected product (e.g., see, present application, page 19, lines 3-12). The results of the negotiation are outputted (e.g., see, present application, page 19, lines 15-24). The user is allowed to authorize purchasing of the selected product (e.g., see, present application, page 19, lines 16-19). Feedback information is provided to the user (e.g., see, present application, page 19, lines 3-12 and lines 15-24). A purchase transaction is completed for the selected product (e.g., see, present application, page 19, lines 16-21 and page 20, line 1-2). A satisfaction response from the user is received and analyzed (e.g., see, present application, page 20, lines 6-8).

GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-5, 9, 10, 12, 13, 15-19, 23, 24 and 26 of U.S. Patent Application Serial No. 10/014,258 are anticipated under 35 U.S.C. §102(e) over U.S. Patent Publication No. 2002/0120935 to Huber ("Huber").

Whether claims 6 and 20 of U.S. Patent Application Serial No. 10/014,258 are obvious under 35 U.S.C. §103(a) over Huber in view of U.S. Patent No. 6,553,347 to Tavor ("Tavor").

Whether claims 11, 14, 25 and 27 of U.S. Patent Application Serial No. 10/014,258 are obvious under 35 U.S.C. §103(a) over Huber in view of U.S. Patent Publication No. 2005/0015815 to Shoff ("Shoff").

Whether claim 28 of U.S. Patent Application Serial No. 10/014,258 are obvious under 35 U.S.C. §103(a) over Huber in view of Tavor.

Whether claim 29 of U.S. Patent Application Serial No. 10/014,258 are obvious under 35 U.S.C. §103(a) over Huber in view of Tavor in further view of U.S. Patent Publication No. 2002/0059590 to Kitsukawa ("Kitsukawa").

Whether claims 30 and 31 of U.S. Patent Application Serial No. 10/014,258 are obvious under 35 U.S.C. §103(a) over Huber in view of U.S. Patent Publication No. 2003/0130983 to Rebane ("Rebane").

Whether claim 32 of U.S. Patent Application Serial No. 10/014,258 are obvious under 35 U.S.C. §103(a) over Huber in view of Tavor in further view of Rebane.

ARGUMENT

Claims 1-5, 9, 10, 12, 13, 15-19, 23, 24 and 26 are said to be anticipated by Huber.

Appellants respectfully request the Board to address the patentability of independent claims 1 and 15, and further claims 2-5, 9, 10, 12, 13, 16-19, 23, 24 and 26 and 8-12 as respectively depending from one of independent claims 1 and 15, based on the requirements of independent claims 1 and 15. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellants herein specifically reserve the right to argue and address the patentability of claims 2-5, 9, 10, 12, 13, 16-19, 23, 24 and 26 and 8-12 at a later date should the separately patentable subject matter of claims 2-5, 9, 10, 12, 13, 16-19, 23, 24 and 26 and 8-12 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of independent claims 1 and 15 is not intended as a

waiver of Appellants' right to argue the patentability of the further claims and claim elements at that later time.

The Final Office Action has taken a position in a Response to Arguments portion on page 2 that "the applicant's claimed invention and the applicant's arguments are not the same." This position is reiterated in the Advisory Action. This position is respectfully refuted herein. The arguments presented there and here are directed to point out the different between providing targeted advertising provided by the source of the video program or provided by a source associated with the source of the video program (see, Huber, paragraph 20) and the present system which performs "a search to identify data related to the selected product including at least one source not associated with a source of the video program" (e.g., see, claim 1). It is this way that a search and identified data may be provided to the user that is not associated with the source of the video program (see, present application, page 14, lines 13-16). Huber merely shows an advertising system such as (emphasis added) "a data casting system ... [wherein] the broadcaster is the party preparing the content and inserting the information, thus acting on behalf of the seller or advertiser[, a

source associated with the broadcaster,] and not on behalf of the consumer." (See, the present application, page 4, lines 12-15.)

The Final Office Action provides much alleged support for Huber's presentation of a source not associated with the provider of the video program, but it is respectfully submitted that a review of the cited sections of Huber provides no such source or suggestion.

Starting on the last line of page 2 and continuing onto page 3, the Final Office Action states that (emphasis added) "Huber discloses performing a search to identify data related to the selected product including at least one source including a supplier retailer, dealer, manufacturer or advertiser not associated with the broadcaster ..." The Final Office Action cites numerous sections of Huber for allegedly supporting this alleged showing including page 1, paragraphs [0008], [0009], Page 2, paragraphs [0012], [0013], [0015], and Pages 3-4, paragraphs [0020], [0032], [0035]. However, upon a careful review of each of the numerous cited pages and paragraphs, it is respectfully submitted that Huber does not disclose or suggest "performing a search to identify data related to the selected product including at least one source not

associated with a source of the video program" as is substantially recited by each of independent claims 1, 15 and claim 28 for that matter (discussed below).

Page 1, paragraphs [0008] and [0009] of Huber as cited in the Final Office Action shows user preferences being utilized to check a plurality of products contained in each of a plurality of advertisements provided by the broadcaster or associated advertiser and selection of one version of the product based on user preferences, certainly not a search of a source not associated with a source of the video program. Page 2, paragraphs [0012] and [0013] show that hotspots may be provided on presented video content to facilitate identification of a product for sale and the purchase thereof. The "hotspots or cues [are] configured to route purchase and information selections to local vendors." (See, Huber, paragraph [0013].) Since the hotspots and cues are provided by the broadcaster of the video program, clearly these do not provide a source not associated with a source of the video program.

Page 2, paragraph [0015] of Huber provides sources for routing "[a] response to an advertising message" with the sources including cable television, Internet communication, telephone, satellite or

other methods, although since each of these sources is merely provided as a route for advertising selection, clearly none of these sources provides an ability to provide a search to identify data related to the selected product including at least one source not associated with a source of the video program.

Page 3, paragraph [0020] although cited in support of the position forwarded in the Final Office Action, provides the clearest position of the association between the search provided by Huber and the provider of the video program. Paragraph [0020] provides that (emphasis added) "[t]he method and system of the present invention [of Huber] may operate as part of, or in conjunction with, systems and methods that provide targeted advertising in which advertising messages may be selected or tailored prior to broadcast in response to user information" which is merely used to "include items that the user may be more likely to purchase as may be determined from both preference information from the user and trend information for similar users." It is not clear how the Final Office Action can maintain that this portion of Huber provides or suggests a search of a source not associated with the source of the video content. Clearly targeted advertising

provides a very close association between the advertiser and the provider of the video program over which hotspots are provided for user selection.

Paragraph [0032] provides that customer information is accessed to select an advertisement type that is suited to the customer/user and therefore is similar to that which is discussed above regarding page 1, paragraphs [0008] and [009] of Huber. Lastly cited is page 4, paragraph [0035] which merely summarizes that Huber, with on-screen selection icons (hotspots), provides a simplified purchasing experience to the user, although again no source is provided that is not associated with the source of the video program.

In fact, a careful review of the cited sections of Huber and all other sections of Huber for that matter makes clear that Huber does not provide a search to identify data related to the selected product of a source not associated with a source of the video program. It is respectfully submitted that the present system clearly contemplates and claims recite more than a system merely acting on behalf of the seller or advertiser.

While the Advisory Action restates the same rejection as the Final Office Action citing each of the above section, it also takes a different tack in alleging that (emphasis added) "Huber clearly meets these limitations as the consumer's preferences are taken into account for the product information." Interestingly, no section of Huber is identified for supporting this allegation. A thorough review of Huber finds no such support. While Huber does use customer's preferences, these preferences are utilized to select advertisements that are suitable for the user, either before or after transmission to the user, yet are provided by the broadcast provider. As made clear in Huber, Huber provides (emphasis added) "a system and method for advertising products and/or services (hereinafter 'products') by automatically selecting advertising messages and product versions that reflect user preferences in an interactive media system that may include interactive TV or streaming media." (See, Huber, paragraph [0007]). In operation, "[a] television, set top box, or personal computer receives broadcast signals containing advertising messages from a television station, cable operator, Internet service provider or other broadcast source." (See, Huber, paragraph

[0011]). Advertisements supplied by the broadcaster are selected after broadcast to the user (See, Huber, paragraph [0014]) or before broadcast to the user (See, Huber, paragraph [0034]).

It is respectfully submitted that nowhere within the four corners of Huber is it disclosed or suggested to perform a search to identify data related to the selected product including at least one source not associated with a source of the video program as substantially recited in each of the independent claims, and particularly claims 1 and 15 and even claim 28 as discussed further below.

The Advisory Action further tries to allege that (emphasis added) "[t]he applicant points to two of the paragraphs that may not encompass all the information provided by the examiner to find this limitation. Customer preference is used to determine a source of a product that is not associated with the broadcaster."

This position is respectfully refuted. Each of the numerous sections cited by the Examiner were identified in the response to the Final Office Action and are identified herein. Each of these sections and the further sections further described above do not support the allegation provided in the Final Office Action and the

Advisory Action. In fact, as stated above, no where within the four corners of Huber is the allegation supported.

The last statement provided in the Advisory Action is not addressed herein in that it seems to be a suggestion for claim amendments. Be it sufficient to say that Appellants have chosen to have the Board review the currently pending claims in light of the deficiencies in the cited prior art as discussed above.

Based on the foregoing, the Appellants respectfully submit that independent claims 1 and 15 are patentable over Huber, alone, and in any combination with Tavor, Shoff, Kitsukawa and Rebane and notice to this effect is earnestly solicited.

Claims 2-5, 9, 10, 12, 13, 15-19, 23, 24 and 26 respectively depend from one of claims 1 and 15 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of said claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

Claims 6 and 20 are said to be unpatentable over Huber in view of Tavor.

Claims 6 and 20 are allowable at least based on their dependence from independent claims 1 and 15.

Claims 11, 14, 25 and 27 are said to be unpatentable over Huber in view of Shoff.

Claims 11, 14, 25 and 27 are allowable at least based on their dependence from independent claims 1 and 15.

Claim 28 is said to be unpatentable over Huber in view of Tavor.

Similar as claims 1 and 15 described in detail above, it is respectfully submitted that the method of claim 28 is not anticipated or made obvious by the teachings of Huber in view of Tavor. For example, Huber in view of Tavor does disclose or suggest, a method that amongst other patentable elements, comprises

(illustrative emphasis provided) "performing a search to identify a source of the selected product through at least one predetermined list of information sources for a particular category including at least one source not associated with a source of the video program" as recited in claim 28. Tavor is only cited for allegedly showing other features of the claim yet in any event, does not cure the deficiencies in Huber.

Based on the foregoing, the Appellants respectfully submit that independent claim 28 is patentable over Huber in view of Tavor.

Claim 29 is said to be unpatentable over Huber in view of Tavor in further view of Kitsukawa.

Claim 29 is allowable at least based on its dependence from independent claim 28.

Claims 30 and 31 is said to be unpatentable over Huber in view of Rebane.

Claims 30 and 31 allowable at least based on their dependence from one of independent claims 1 and 15.

Claim 32 is said to be unpatentable over Huber in view of Tavor in further view of Rebane.

Claim 32 is allowable at least based on its dependence from independent claim 28.

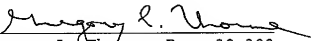
In addition, Appellants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-6, 9-20 and 23-32 are patentable over any of Huber alone and in any combination of Tavor, Shoff, Kitsukawa and Rebane.

Thus the Examiner's rejection of Claims 1-6, 9-20 and 23-32 should be reversed.

Respectfully submitted,

By 
Gregory L. Thorne, Reg. 39,398
Attorney for Appellants
July 15, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

APPENDIX A

CLAIMS ON APPEAL

1. (Previously presented) A method of performing a transaction using a video device, the method comprising the steps of:

acquiring a video signal containing a video program;
extracting from said video signal video enhanced content information representative of at least one marked product presented on the video program;

presenting to the user the video enhanced content information;
receiving a selection of a marked product of interest;
performing a search to identify data related to the selected product including at least one source not associated with a source of the video program; and

providing the identified data to a user of the video device.

2. (Original) The method of claim 1, wherein said video signal includes metadata.

3. (Original) The method of claim 1, further comprising the step of purchasing the selected product.

4. (Original) The method of claim 1, further comprising the step of filtering the video enhanced content information based on preferences customized by at least one user.

5. (Original) The method of claim 4, wherein said user's preferences include values and life style of the user.

6. (Previously presented) The method of claim 1, wherein the identified data includes a source of the product of interest, the method further comprising the step of negotiating with the product source by offering a price the user is willing to pay to buy the product of interest other than a price initially offered by the source and outputting results of the negotiation.

7. (Canceled)

8. (Canceled)

9. (Original) The method of claim 1, wherein the performing step is performed by searching sources from at least one predetermined list for a particular category.

10. (Original) The method of claim 1, wherein the video signal is acquired from at least one video signal source selected from a group consisting of a broadcasting system, a content creator, a service provider, and a set-top box.

11. (Original) The method of claim 1, wherein the video signal is separated into a plurality of frames, each frame from at least a portion of the plurality of frames being subdivided into selectable regions capable of being selected during the selecting step.

12. (Original) The method of claim 1, further comprising the step of receiving and analyzing transaction related information from the user.

13. (Original) The method of claim 1, further comprising the step of periodically monitoring said content information and triggering an action based on user's requests or preferences.

14. (Original) The method of claim 1, further comprising the step of making a personalized catalog for the user.

15. (Previously presented) A system for performing a transaction using a video device, said system comprising:

a set-top box for acquiring a video signal containing a video program, said set-top box including a memory, a processor and input/output means associated therewith for transferring the signal, the processor being capable of:

extracting from said video signal video enhanced content information representative of at least one marked product presented on the video program;

presenting to the user the video enhanced content information;

receiving a selection of a marked product of interest;

performing a search to identify data related to the selected product including at least one source not associated with a source of said video program; and

providing the identified data to the user;

a video device operatively coupled with the set-top box for displaying the video program, video enhanced content information, and identified data to the user; and

an input device operatively associated with said set-top box for controlling said set-top box.

16. (Original) The system of claim 15, wherein said video signal includes metadata.

17. (Original) The system of claim 15, wherein the processor is further capable of purchasing the selected product.

18. (Original) The system of claim 15, wherein the processor is further capable of filtering the video enhanced content information based on stored preferences customized by at least one user.

19. (Original) The system of claim 18, wherein said user's preferences include values and life style of the user.

20. (Previously presented) The system of claim 15, wherein the identified data includes a source of the product of interest, the processor further capable of negotiating with the product source by offering a price the user is willing to pay to buy the product of interest other than a price initially offered by the source and outputting results of the negotiation.

21. (Canceled)

22. (Canceled)

23. (Original) The system of claim 15, wherein the processor has a predetermined list for a particular category associated therewith, the processor accessing the predetermined list to perform the search for identified data.

24. (Original) The system of claim 15 further comprising a source for the video signal, the video signal source being selected from a group consisting of a broadcasting system, a content creator, a service provider, and a set-top box.

25. (Original) The system of claim 15, wherein the video signal is separated into a plurality of frames, each frame from at least a portion of the plurality of frames being subdivided into selectable regions, the processor capable of selecting at least one selectable region during the selecting step.

26. (Original) The system of claim 15, wherein the processor is further capable of periodically monitoring said content information and triggering an action based on user's requests or preferences.

27. (Original) The system of claim 15, wherein the processor is further capable of making a personalized catalog for the user.

28. (Previously presented) A method of performing a transaction using a video device, said method comprising the steps of:

acquiring a video signal containing a video program;

customizing preferences for at least one user;

extracting from the video signal video enhanced content information representative of at least one product presented on the video program;

filtering the video enhanced content information based on the preferences;

presenting to the user the filtered video enhanced content information;

receiving a selection of a product of interest;

performing a search to identify a source of the selected product through at least one predetermined list of information sources for a particular category including at least one source not associated with a source of the video program;

negotiating with the identified product source by offering a price the user is willing to pay to buy the selected product other than a price initially offered by the source regarding the selected product and outputting results of the negotiation;

allowing the user to authorize purchasing of the selected product;

providing feedback information to the user;

completing a purchase transaction for the selected product;
and

receiving and analyzing a satisfaction response from the user.

29. (Original) The method of claim 28, further comprising the step of storing said video signal in a storage device.

30. (Previously presented) The method of claim 1, further comprising the step of prioritizing results of the search performed by the performing step based on availability.

31. (Previously presented) The system of claim 15, wherein the processor is further capable of prioritizing results of the search performed by the performing step based on availability.

32. (Previously presented) The method of claim 28, further comprising the step of prioritizing results of the search performed by the performing step based on availability.

Patent
Serial No. 10/014,258
Amendment in Reply to Final Office Action of February 15, 2008
and Advisory Action of April 22, 2008

APPENDIX B

Evidence on Appeal

None

Patent
Serial No. 10/014,258
Amendment in Reply to Final Office Action of February 15, 2008
and Advisory Action of April 22, 2008

APPENDIX C

Related Proceedings of Appeal

None